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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,778	07/28/2006	Hajime Mackawa	MAT-8872US	9923
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EXAMINER				
BENOIT, ESTHER				
ART UNIT		PAPER NUMBER		
2442				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/587,778

Applicant(s)

MAEKAWA ET AL.

Examiner

ESTHER BENOIT

Art Unit

2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/220)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Amendments

1. This Action is in response to an Amendment filed on August 10, 2009. Claims 22, 42, and 51 have been amended. Claims 33-58 are pending in this application.

Response to Arguments

2. Applicant's arguments filed 8/10/2009 have been fully considered but they are not persuasive. The applicants are arguing in substance the following:

Arguments under 35 U.S.C. 102 (a)

Arguments to Claim 42:

a) The prior art reference- Yonezawa, does not teach "receiving a demand for sustain data transmitted from the data processing apparatus in order to sustain the tunnel communication between the data processing apparatus and the other processing apparatus".

Response to arguments of Claim 42:

As to point a: The argument has been considered but is not persuasive. On pg. 5, paragraph [0011], Yonezawa discloses a requesting device **11** that sends a request through a tunnel manager **12** to the tunnel contact **13**. Once the tunnel contact **13** grants an agreement to device **11** to perform a connection, device **11** and contact **13** establish a tunnel connection.

As to any claims not specifically discussed, the applicants argued that it was patentable for one of the reasons discussed above. Please see response to above arguments for unspecified discussions.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 33-58 are rejected under 35 U.S.C. 102(a) as being anticipated by Yonezawa et al. (JP 2003-244251, August 2003).

With respect to claim 42, Yonezawa discloses:

- a sustain data demand receiving unit for receiving a demand for sustain data transmitted from the data processing apparatus in order to sustain the tunnel communication between the data processing apparatus and the other data processing apparatus ([0011], *where 206 receives tunnel reconstruction demand*);
- a sustain data demand transmitting unit for transmitting the received demand for sustain data to a tunnel managing apparatus connected to the

access apparatus through a communication line ([0011], *reconstruction demand transmission*);

- a sustain data receiving unit for receiving a sustain data transmitted from the tunnel managing apparatus in response to the demand for sustain data ([0035], *user authentication received from controlling device*);
- and a sustain data transmitting unit for transmitting the sustain data to the data processing apparatus ([0035], *tunnel request device transmits user authentication information*).

With respect to claim 33, the method of claim 33 is rejected for the same reasons as the apparatus of claim 42 above. Please see rejection above.

With respect to claim 34 and 43, Yonezawa discloses the sustain data is used for the data processing apparatus to judge whether to cancel the tunnel communication or not ([0035]).

With respect to claims 35-36, 44-45, and 53, Yonezawa discloses a tunnel control data receiving step, in which the access apparatus receives tunnel control data transmitted from the data processing apparatus ([0011], *information controlling device*); a tunnel communication data modification judging step, in which the access apparatus judges whether to modify the tunnel communication data or not ([0037], *tunnel reconstruction*); and a tunnel control data transmitting step, in which the access

apparatus transmits the tunnel control data to the tunnel managing apparatus, in the case where it is judged that the tunnel communication data should be modified ([0037]).

With respect to claim 37, 46, 52, and 56-58, Yonezawa discloses the tunnel communication data indicates at least one of a data regarding the tunnel communication allow/disallow flag, a data regarding time of the tunnel communication, and a data regarding charging of the tunnel communication ([0038]).

With respect to claim 38 and 47, Yonezawa discloses the access apparatus executes the sustain data demand receiving step at prescribed time intervals ([0024]).

With respect to claim 39 and 48, Yonezawa discloses an identifier registration step of registering identifier, in which the access apparatus identifies at least one of the addresses of tunnel communication, to be performed by the data processing apparatus and the data processing apparatus concerned, before executing the sustain data demand receiving step ([0036]).

With respect to claim 40, 49, and 54, Yonezawa discloses the tunnel communication data modification judging step judges if the identifier for identifying the different data processing apparatus is registered in advance in the access apparatus or not and, in the case where such identifier is registered, executes the tunnel control data transmitting step ([0037]).

With respect to claim 41 and 50, Yonezawa discloses the tunnel communication data is controlled by the tunnel managing apparatus, and is used for controlling the tunnel communication ([0011]).

With respect to claim 51, Yonezawa discloses:

the access apparatus comprises:

- a first demand receiving unit for receiving a demand for transmission of sustain data regarding sustaining of the tunnel communication performed by the data processing apparatus, from the data processing apparatus in order to sustain the tunnel communication between the data processing apparatus and the other data processing apparatus ([0011], *where 206 receives tunnel reconstruction demand*);
- a demand transmitting unit for transmitting the received demand for transmission concerned to the tunnel managing apparatus, in the case where the first demand receiving unit received the demand for transmission ([0011], *reconstruction demand transmission*);
- a sustain data receiving unit for receiving the sustain data transmitted from the tunnel managing apparatus in response to the demand for sustain data [0035], *user authentication received from controlling device*);
- a first sustain data transmitting unit for transmitting the sustain data concerned to the data processing apparatus, in the case where the sustain data receiving unit received the sustain data ([0035], *tunnel request device transmits user authentication information*);

the tunnel managing apparatus comprises:

- a tunnel communication data controlling unit for controlling tunnel communication data regarding the tunnel communication ([0011], *information controlling device*);
- a second demand receiving unit for receiving the demand for transmission transmitted from the access apparatus (this will allow communication between the ([0011], *necessary for the tunnel contact and the tunnel information controlling device to communicate*);
- and a second sustain data transmitting unit for transmitting the sustain data to the access apparatus based on the tunnel communication data, in the case where the second demand receiving unit received the demand for transmission ([0035], *necessary for the tunnel contact and the tunnel information controlling device to communicate*)

With respect to claim 55, Yonezawa discloses the tunnel control data is a data demanding modification of time when the data processing apparatus can perform the tunnel communication ([0037]).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ESTHER BENOIT whose telephone number is (571)270-3807. The examiner can normally be reached on Monday through Friday between 7:30 a.m and 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

E.B.
November 19, 2009

/Shawki S Ismail/

Primary Examiner, Art Unit 2455